

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

MARTIN ROSS,	:	
	:	
Petitioner,	:	Case No. 3:22-cv-3
	:	
v.	:	Judge Thomas M. Rose
	:	
JENNY HILDEBRAND, Warden,	:	Magistrate Judge Michael R. Merz
London Correctional Institution,	:	
	:	
Respondent.	:	

ENTRY AND ORDER OVERRULING OBJECTIONS (DOC. NO. 4 AND DOC. NO. 7); ACCEPTING AND ADOPTING REPORT AND RECOMMENDATIONS (DOC. NO. 3) AND SUPPLEMENTAL REPORT AND RECOMMENDATIONS (DOC. NO. 6); DISMISSING WITH PREJUDICE THE PETITION FOR WRIT OF HABEAS CORPUS (DOC. NO. 2); AND, TERMINATING THE CASE

This 28 U.S.C. § 2254 habeas corpus action is before the Court on the Objections (Doc. No. 4 and Doc. No. 7) filed by Petitioner Martin Ross (“Petitioner”) to the Report and Recommendations (Doc. No. 3) (“Report”) and Supplemental Report and Recommendations (Doc. No. 6) (“Supplemental Report”). On January 4, 2022, Petitioner filed a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254 (Doc. No. 2) (the “Petition”), which contains two grounds for relief. In the Report and the Supplemental Report, Magistrate Judge Michael R. Merz—during the preliminary review stage pursuant to Rule 4 of the Rules Governing § 2254 Cases—concluded that the Petitioner’s first ground for relief does not state a claim under the Constitution upon which habeas corpus relief can be granted, and that the Petitioner’s second ground for relief should be dismissed because there was sufficient evidence to convict Petitioner and Ohio’s Second District Court of Appeals’ decision on Petitioner’s Second Assignment of Error was a reasonable

application of *Jackson v. Virginia*, 443 U.S. 307 (1979). (Doc. No. 3; Doc. No. 6.) Accordingly, he recommended that this Court dismiss the Petition with prejudice. (*Id.*) Petitioner objected to the Report and to the Supplemental Report. (Doc. No. 4; Doc. No. 7.) The matter is ripe for the Court's review.

As required by 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72(b), the Court has made a *de novo* review of the record in this case. Upon said review, the Court finds that Petitioner's Objections (Doc. No. 4 and Doc. No. 7) are not well-taken and they are hereby **OVERRULED**. The Court **ACCEPTS** the Report (Doc. No. 3) and the Supplemental Report (Doc. No. 6), **ADOPTS** them in their entirety, and rules as follows:

1. The Petition (Doc. No. 2) is **DISMISSED WITH PREJUDICE**;
2. As reasonable jurists would not disagree with this conclusion, Petitioner is **DENIED** a certificate of appealability;
3. The Court **CERTIFIES** to the Sixth Circuit that any appeal would be objectively frivolous and therefore should not be permitted to proceed *in forma pauperis*;
4. The Clerk is directed to **NOTIFY** the petitioner; and
5. The Clerk is ordered to **TERMINATE** this case on the docket of this Court.

DONE and **ORDERED** in Dayton, Ohio, this Tuesday, March 22, 2022.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE